

AMENDED IN SENATE MAY 22, 2014

AMENDED IN ASSEMBLY APRIL 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2056**

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**Introduced by Assembly Member Dababneh**

February 20, 2014

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An act to ~~amend Section 120 of, and to add Part 9 (commencing with Section 12880) to Division 2 of, the Insurance Code, relating to insurance.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 2056, as amended, Dababneh. Insurance: pet insurance.

Existing law governs the business of insurance and authorizes the Insurance Commissioner to provide oversight over the insurance industry including, life and disability insurance, health insurance, workers' compensation, and liability insurance. The commissioner is authorized to, among other things, conduct investigations and bring enforcement actions against insurers for violations of the laws governing the business of insurance. ~~Insurance in the state is divided into classes including, among other things, miscellaneous insurance, which includes insurance against loss from damage done by lightning and any insurance not included in the foregoing classes but which is a proper subject of insurance.~~

~~This bill would add pet insurance as a type of miscellaneous insurance, regulate pet insurance policies that are marketed, issued, amended, renewed, or delivered to a resident in this state, on or after July 1, 2015, regardless of the situs of the contract or master group policyholder, or the jurisdiction in which the contract was issued or delivered. The bill~~

would define certain terms; and specify certain disclosures ~~an insurer of pet insurance~~ a pet insurer is required to make to consumers. The bill would apply to a policy of pet insurance that is marketed, issued, amended, renewed, or delivered to a resident of this state, on or after July 1, 2015, regardless of the situs of the contract or master group policyholder, or the jurisdiction in which the contract was issued or delivered. The bill would *also* require an insurer transacting pet insurance in this state to disclose, among other things, whether the policy excludes coverage because of a preexisting condition, a hereditary disorder, a congenital anomaly, or a chronic condition, and would require that pet insurance policies have a free look cancellation period of not less than 30 days, as provided.

This bill would authorize the commissioner to hold a hearing to determine if an insurer is in violation of the provisions governing pet insurance and to assess a civil penalty, which is to be determined by the commissioner but not to exceed \$5,000 for each violation, or \$10,000 for a willful violation. The hearing would be required to be conducted pursuant to the Administrative Procedure Act, except as specified, and a person found to be in violation may have the proceedings reviewed by means of any remedy pursuant to a specified statute or the Administrative Procedure Act. The bill would authorize the commissioner to adopt reasonable rules and regulations, as necessary, in accordance with the Administrative Procedure Act in order to implement these requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 120 of the Insurance Code is amended~~  
2     ~~to read:~~  
3     ~~120. Miscellaneous insurance includes insurance against loss~~  
4     ~~from damage done, directly or indirectly by lightning, windstorm,~~  
5     ~~tornado, earthquake or insurance under an open policy~~  
6     ~~indemnifying the producer of any motion picture, television,~~  
7     ~~theatrical, sport, or similar production, event, or exhibition against~~  
8     ~~loss by reason of the interruption, postponement, or cancellation~~  
9     ~~of such production, event, or exhibition due to death, accidental~~  
10    ~~injury, or sickness preventing performers, directors, or other~~  
11    ~~principals from commencing or continuing their respective~~

~~performance or duties, pet insurance, as defined in Section 12880,  
and any insurance not included in any of the types of insurance  
specified in this section but which is a proper subject of insurance.~~

~~SEC. 2.~~

*SECTION 1.* Part 9 (commencing with Section 12880) is added  
to Division 2 of the Insurance Code, to read:

#### PART 9. PET INSURANCE

12880. For purposes of this part, the following definitions shall  
apply:

(a) “Chronic condition” means a condition that can be treated  
or managed, but not cured.

(b) “Congenital anomaly or disorder” means a condition that is  
present from birth, whether inherited or caused by the environment,  
which may cause or otherwise contribute to illness or disease.

(c) “Hereditary disorder” means an abnormality that is  
genetically transmitted from parent to offspring and may cause  
illness or disease.

(d) “Pet insurance” means an individual or group insurance  
policy that provides coverage for veterinary expenses.

(e) “Preexisting condition” means any condition for which a  
veterinarian provided medical advice, the pet received treatment  
for, or the pet displayed signs or symptoms consistent with the  
stated condition prior to the effective date of a pet insurance policy  
*or during any waiting period.*

(f) “Veterinarian” means an individual who holds a valid license  
to practice veterinary medicine from the Veterinary Medical Board  
pursuant to Chapter 11 (commencing with Section 4800) of  
Division 2 of the Business and Professions Code or other  
appropriate licensing entity in the jurisdiction in which he or she  
practices.

(g) “Veterinary expenses” means the costs associated with  
medical advice, diagnosis, care, or treatment provided by a  
veterinarian, including, but not limited to, the cost of drugs  
prescribed by a veterinarian.

(h) “Waiting or affiliation period” means the period of time  
specified in a pet insurance policy that is required to transpire  
before some or all of the coverage in the policy can begin.

1 12880.1. A policy of pet insurance that is marketed, issued,  
2 amended, renewed, or delivered to a resident of ~~of~~ in this state, on or  
3 after July 1, 2015, regardless of the situs of the contract or master  
4 group policyholder, or the jurisdiction in which the contract was  
5 issued or delivered, is subject to this part.

6 12880.2. (a) An insurer transacting pet insurance in California  
7 shall disclose all of the following to consumers:

8 (1) If the policy excludes coverage due to any of the following:

9 (A) A preexisting condition.

10 (B) A hereditary disorder.

11 (C) A congenital anomaly or disorder.

12 (D) A chronic condition.

13 (2) If the policy includes any other exclusion, the following  
14 statement: "Other exclusions may apply. Please refer to the  
15 exclusions section of the policy for more information."

16 (3) Any policy provision that limits coverage through a waiting  
17 or affiliation period, a deductible, coinsurance, or an annual or  
18 lifetime policy limit.

19 (4) Whether the insurer reduces coverage or increases premiums  
20 based on the insured's claim history.

21 (b) (1) If a pet insurer uses any of the terms in paragraph (1)  
22 of subdivision (a) in a policy of pet insurance, the insurer shall use  
23 the definition of those terms as set forth in Section 12880 and  
24 include the definition of the term in the policy. The pet insurer  
25 shall also make that definition available through a link on the main  
26 page of the insurer's Internet Web site.

27 (2) Nothing in this subdivision or Section 12880 in any way  
28 prohibits or limits the types of exclusions pet insurers may use in  
29 their policies.

30 (c) A pet insurer shall clearly disclose a summary description  
31 of the basis or formula on which the insurer determines claim  
32 payments under a pet insurance policy within the policy and  
33 through a link on the main page of the insurer's Internet Web site.

34 (d) A pet insurer that uses a benefit schedule to determine claim  
35 payment under a pet insurance policy shall do both of the  
36 following:

37 (1) Clearly disclose the applicable benefit schedule in the policy.

38 (2) Disclose all benefit schedules used by the insurer under its  
39 pet insurance policies through a link on the main page of the  
40 insurer's Internet Web site.

1 (e) A pet insurer that determines claim payments under a pet  
2 insurance policy based on usual and customary fees, or any other  
3 reimbursement limitation based on prevailing veterinary service  
4 provider charges, shall do both of the following:

5 (1) Include a usual and customary fee limitation provision in  
6 the policy that clearly describes the insurer's basis for determining  
7 usual and customary fees and how that basis is applied in  
8 calculating claim payments.

9 (2) Disclose the insurer's basis for determining usual and  
10 customary fees through a link on the main page of the insurer's  
11 Internet Web site.

12 (f) The insurer shall create a summary of all policy provisions  
13 required in subdivisions (a) through (e), inclusive, into a separate  
14 document titled "Insurer Disclosure of Important Policy  
15 Provisions."

16 (g) The insurer shall post the "Insurer Disclosure of Important  
17 Policy Provisions" document required in subdivision (f) through  
18 a link on the main page of the insurer's Internet Web site.

19 (h) (1) In connection with the issuance of a new pet insurance  
20 policy, the insurer shall provide the consumer with a copy of the  
21 "Insurer Disclosure of Important Policy Provisions" document  
22 required pursuant to subdivision (f) in at least 12-point type when  
23 it delivers the policy.

24 (2) In addition, the pet insurance policy shall have clearly printed  
25 thereon or attached thereto a notice stating that, after receipt of the  
26 policy by the owner, the policy may be returned by the insured for  
27 cancellation by delivering it or mailing it to the insurer or to the  
28 agent through whom it was purchased.

29 (A) The period of time set forth by the insurer for return of the  
30 policy shall be clearly stated on the notice, and this free look period  
31 shall be not less than 30 days. The insured may return the policy  
32 to the insurer or the agent through whom the policy was purchased  
33 at any time during the free look period specified in the notice.

34 (B) The delivery or mailing of the policy by the insured pursuant  
35 to this paragraph shall void the policy from the beginning, and the  
36 parties shall be in the same position as if a policy or contract had  
37 not been issued.

38 (C) All premiums paid and any policy fee paid for the policy  
39 shall be refunded to the insured within 30 days from the date that  
40 the insurer is notified of the cancellation. However, if the insurer

1 has paid any claim, or has advised the insured in writing that a  
2 claim will be paid, the 30-day free look right pursuant to this  
3 paragraph is inapplicable and instead the policy provisions relating  
4 to cancellation apply to any refund.

5 (i) The disclosures required in this section shall be in addition  
6 to any other disclosure requirements required by law or regulation.

7 12880.3. (a) A person who violates a provision of this part is  
8 liable to the state for a civil penalty to be determined by the  
9 commissioner, not to exceed five thousand dollars (\$5,000) for  
10 each violation, or, if the violation was willful, a civil penalty not  
11 to exceed ten thousand dollars (\$10,000) for each violation. The  
12 commissioner may establish the acts that constitute a distinct  
13 violation for purposes of this section. However, when the issuance,  
14 amendment, or servicing of a policy or endorsement is inadvertent,  
15 all of those acts constitute a single violation for purposes of this  
16 section.

17 (b) The penalty imposed by this section shall be imposed by  
18 and determined by the commissioner pursuant to Section 12880.4.  
19 The penalty imposed by this section is appealable by means of any  
20 remedy provided by Section 12940 or by Chapter 5 (commencing  
21 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
22 Government Code.

23 12880.4. (a) Whenever the commissioner shall have reason  
24 to believe that a person has engaged or is engaging in this state in  
25 a violation of this article, and that a proceeding by the  
26 commissioner in respect thereto would be to the interest of the  
27 public, he or she shall issue and serve upon that person an order  
28 to show cause containing a statement of the charges in that respect,  
29 a statement of that person's potential liability under this part, and  
30 a notice of a hearing thereon to be held at a time and place fixed  
31 therein, which shall not be less than 30 days after the service  
32 thereof, for the purpose of determining whether the commissioner  
33 should issue an order to that person to pay the penalty imposed by  
34 Section 12880.3 and to cease and desist those methods, acts, or  
35 practices, or any of them, that violate this article.

36 (b) If the charges or any of them are found to be justified, the  
37 commissioner shall issue and cause to be served upon that person  
38 an order requiring that person to pay the penalty imposed by  
39 Section 12880.3 and to cease and desist from engaging in those  
40 methods, acts, or practices found to be in violation of this part.

1 (c) The hearing shall be conducted in accordance with the  
2 Administrative Procedure Act (Chapter 5 (commencing with  
3 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
4 Code), except that the hearings may be conducted by an  
5 administrative law judge in the administrative law bureau when  
6 the proceedings involve a common question of law or fact with  
7 another proceeding arising under other Insurance Code sections  
8 that may be conducted by administrative law bureau administrative  
9 law judges. The commissioner and the appointed administrative  
10 law judge shall have all the powers granted under the  
11 Administrative Procedure Act.

12 (d) The person shall be entitled to have the proceedings and the  
13 order reviewed by means of any remedy provided by Section 12940  
14 or by the Administrative Procedure Act.

15 12880.5. The commissioner may adopt reasonable rules and  
16 regulations, as are necessary to administer this part, in accordance  
17 with the rulemaking provisions of the Administrative Procedure  
18 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
19 Division 3 of Title 2 of the Government Code).